IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 383 (M/S) OF 2006

Vachaspati Lakhera S/o Sri P.D. Lakhera
R/o 22/41 national Road, Lakchman chowk
Dehradun District Dehradun. .....Petitioner

Versus

1. Additional District Judge/ F.T.C. VI, Dehradun.
2. P.D. Lakhera S/o Sadanand Lakhera R/o 2/41 National Road Lakchman chowk, Dehradun.
3. Jai Prakash S/o Sri P.D. Lakhera R/o B-141 ONGC Colony Baroda Gujrat.
4. Smt. Kusum Lakhera Nishawan W/o Sri Naveen Nishawan R/o 162 Janakpuri Delhi paschim.

....Defendants/ Respondents

13.04.2006

Sri Gopal Narain, learned counsel for the petitioner.
Sri Arvind Vashist, learned counsel for the respondent No.2, 3 & 4.
Learned Standing Counsel for the respondent No.1.

Hon'ble Rajesh Tandon, J.

Heard Sri Gopal Narain, Learned Counsel for the petitioner, Sri Arvind Vashisht, Learned Counsel for the respondent No.2, 3 & 4 and Standing Counsel for the respondent no.1.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 04.04.2006 and directing the respondents to call the report from the Inspecting Officer.

Briefly stated according to the case of the petitioner, he has filed a partition suit no.655/2002 claiming his share against the respondents. The Trial Court has passed an exparte injunction in the favour of the petitioner. Thereafter the issues were framed on the pleadings of the parties and the case was fixed on 10.12.2004 and exparte injunction order was extended

till then. On 10.12.2004 the respondent no.1 has passed an order for spot inspection on 26.12.2004. The Trial court however has rejected the injunction application vide order dated 05.01.2005.

On 04.04.2006, the petitioner moved an application before the Learned Judge with a prayer that the inspection report dated 26.10.2004 may be called from Presiding Officer, Family Court, Dehradun who has inspected the disputed place and alternatively fresh inspection may be carried out.

In the interest of the justice the inspection may be carried out by the Civil Judge (S.D.) or any other Officer of the Court concerned authorized by the Civil Judge (S.D.) for inspection. After the inspection the case itself may be finalized.

In view of the above, so far as the order rejecting the inspection is concerned, the same is set aside. However, inspection shall be made by the Officer authorized by the Civil Judge (S.D.). However, it is also made clear that Presiding Officer shall not grant unnecessarily adjournment.

Consequently, Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

13.04.2006
Jain